

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**SHEILA STIDAM AND DALE STIDAM**  
**Plaintiffs,**

**v.**

**DIEU NGUYEN; AND I B N**  
**TRANSPORT LLC.**

**Defendants.**

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**CIVIL ACTION NO.** \_\_\_\_\_

**DEFENDANTS' NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1446(a), DIEU NGUYEN and I B N TRANSPORT LLC, Defendants in the above-described action, files this Notice of Removal based on diversity jurisdiction under 28 U.S.C. §§ 1332, 1441 and, in support thereof, to the United States District Court for the Northern District of Texas from the 348<sup>th</sup> Judicial District Court, Tarrant County, Texas, where the action is now pending, and respectfully shows the Court as follows:

**I. INTRODUCTION AND BACKGROUND**

Defendants remove this state-filed action based on diversity jurisdiction under 28 U.S.C. §§ 1332 and 1441, as the matter in controversy exceeds the sum or value of \$75,000 and is between citizens of different states.

**A. Plaintiffs' State Court Petition**

1. Plaintiffs are Shelia Stidam and Dale Stidam ("Plaintiffs"). Plaintiffs' Original Petition (the "Petition") names Dieu Nguyen and I B N Transport LLC.

2. On March 23, 2021, Plaintiffs filed their Petition in the 348<sup>th</sup> Judicial District Court, Tarrant County, Texas, which is located at 600 Commerce Street, Suite 640, Fort Worth, TX,

76102. Defendants were served on April 6, 2021. Defendants filed their Original Answers on April 8, 2021. This case is currently pending as Cause No. 348-324214-21 in Tarrant County, Texas. In this action, Plaintiffs seek “over \$250,000 and less than \$1,000,000” in damages against Defendants.

3. No party has requested a trial by jury at this time.

**B. Citizenship of the Parties**

4. At the time of the commencement of this action in state court, and since that time, Plaintiff Shelia Stidam is and is now, a natural person and citizen of the State of Texas.

5. At the time of the commencement of this action in state court, and since that time, Plaintiff Dale Stidam is and is now, a natural person and citizen of the State of Texas.

6. At the time of the commencement of this action in state court, and since that time, Defendant I B N Transport LLC was and still is a California corporation with its principal place of business in Los Angeles, California. As a result, for purposes of diversity of citizenship jurisdiction, Defendant I B N Transport LLC is a citizen of the State of California. *See* 28 U.S.C. § 1332(a).

7. At the time of the commencement of this action in state court, and since that time, Defendant Nguyen was and is now, a natural person and citizen of the State of California. *See Freeman v. Northwest Acceptance Corp.*, 754 F.2d 553, 555-56 (5<sup>th</sup> Cir. 1985) (citing *Stine v. Moore*, 213 F.2d 446, 448 (5<sup>th</sup> Cir. 1954)).

8. No Defendant is a citizen of the State of Texas.

**C. Amount in Controversy Exceeds \$75,000.00**

9. Plaintiffs alleges in their Petition that they seek damages between “over \$250,000 but not more than \$1,000,000.” Removing Defendants are able to rely on Plaintiffs’ statement of the amount in controversy according to well established law. *See S.W.S. Erectors Inc. v. Infax Inc.*,

72 F.3d 489, 492 (5<sup>th</sup> Cir. 1996). Therefore, the amount in dispute exceeds \$75,000, as required by 28 U.S.C. § 1332(a).

**D. Removal is Timely**

10. On March 23, 2021, Plaintiffs filed this action in the 348<sup>th</sup> Judicial District Court, Tarrant County, Texas. Defendants were served on April 6, 2021. On April 8, 2021, Defendants filed their original answer. Defendants' file their notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b).

**E. Pleadings Attached**

11. All pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a).

**F. Notice of Removal Given to State Court and Adverse Parties**

12. Promptly after filing this Notice of Removal, Defendants will give written notice thereof to Plaintiffs and will file a copy of this Notice of Removal with the clerk of the 348<sup>th</sup> Judicial District Court, Tarrant County, Texas, as required by 28 U.S.C. § 1446(d).

**G. Venue**

13. Removal to this district under 28 U.S.C. § 1441(a) is proper because the United States District Court for the Northern District of Texas, Ft. Worth Division, is the district and division that embraces the place where the removed action has been pending, which is Tarrant County, Texas. *See* 28 U.S.C. § 124(a)(1).

**II. GROUNDS OF REMOVABILITY**

14. Removal is proper under 28 U.S.C. §§ 1332, 1441, and 1446 because there is complete diversity of citizenship, the amount in controversy exceeds \$75,000, and this removal is filed within 30 days after the service on Defendants. *Alim v. KBR, Inc.*, No. 13-11094, 2014 U.S. App. LEXIS 10508, at \*4 (5<sup>th</sup> Cir. 2014) (30-day deadline for removal runs from the defendant's

receipt of a pleading setting forth a removable claim). Any civil action brought in a state court of which the district courts of the United States have original jurisdiction, may be removed by the defendant(s) to the district court of the United States for the district and division embracing the place where such action is pending. 28 U.S.C. § 1441(a). The federal district courts have original jurisdiction over all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between “citizens of different States.” 28 U.S.C. § 1332(a)(1).

15. Plaintiffs were and are now natural persons and citizens of the State of Texas. *See Freeman v. Northwest Acceptance Corp.*, 754 F.2d 553, 555-56 (5<sup>th</sup> Cir. 1985).

16. Defendant I B N Transport LLC is not a citizen of the State of Texas, is not incorporated under the laws of Texas, and does not maintain its principal place of business within Texas. Instead, Defendant I B N Transport LLC is incorporated under the laws of California and maintains its principal place of business in California. Therefore, Defendant I B N Transport LLC is a citizen of California. *See* 28 U.S.C. § 1332(a). With respect to Defendant Nguyen, he is not a citizen of the State of Texas. Instead, Defendant Nguyen is a citizen of the state of California. The matter in controversy exceeds \$75,000.00 exclusive of interest and costs. In the Petition, Plaintiffs seek more than \$250,000 in damages. *See S.W.S. Erectors Inc. v. Infax Inc.*, 72 F.3d 489, 492 (5<sup>th</sup> Cir. 1996). Therefore, under 28 U.S.C. § 1332(a)(1), this Court has original jurisdiction over the civil action originated by Plaintiffs’ Petition in state court, and Defendants remove the action as a matter of right under 28 U.S.C. § 1441.

### **III. CONCLUSION**

17. Wherefore, premises considered, this action is an action of which this Court has original jurisdiction under 28 U.S.C. § 1332 and is one which may be removed to this Court by Defendants pursuant to provisions of 28 U.S.C. § 1441(a) in that it is a civil action wherein the

amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and is between parties of different states. Pursuant to 28 U.S.C. § 1446(a), Defendants removes the state-court action styled *Shelia Stidam; and Dale Stidam v. Dieu Nguyen; and I B N Transport LLC*, to the United States Federal District Court of the Northern District of Texas, Tarrant Division, based on diversity jurisdiction.

Respectfully submitted,

**MILLER & BROWN, L.L.P.**

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ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

On the 20<sup>th</sup> day of April, 2021, I electronically submitted the foregoing document with the Clerk of Court for the United States District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5 (b)(2).

/s/ J. Robert Miller, Jr.  
**J. ROBERT MILLER, JR.**

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